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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/376,875	08/18/1999	GREGORY M. CHRYSLER	884.148US1	7059

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EXAMINER

ATKINSON, CHRISTOPHER MARK

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 06/25/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/376,875

Applicant(s)

Chrysler et al.

Examiner

Atkinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/2/03 & 4/30/03
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- ## Disposition of Claims
- 4) ☒ Claim(s) 1-3, 5-9 and 22-35 is/are pending in the application.
- 4a) Of the above, claim(s) 1-3, 5-9, 25-26 and 33-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-24 and 27-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/18/99 & 12/4/00 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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Response to Amendment

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claims 1-3, 5-9, 25-26 and 33-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 4.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fan (115) attached to the front (117) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The drawing correction filed 12/4/200 of drawing of fig.2 shows the fan (115) attached to the side, not the front.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have

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been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

Claims 22-24 and 27 are rejected under 35 U.S.C. § 103 as being unpatentable over Jean or Morosas in view of Lee and Wyler et al.

The patent of Jean, in Figures 3-6, and the patent of Morosas, in Figures 1-5 disclose all the claimed features with the exception of a clip, the claimed aspect ratio and the folded fin having arches.

The patent of Lee discloses that it is known to have a folded fin having semi-circular arches and an aspect ratio within the claimed range for the purpose of reducing pressure losses within the fluid flowing over the arches. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Jean or Morosas semi-circular arches and an aspect ratio within the claimed range for the purpose of reducing pressure losses within the fluid flowing over the arches as disclosed in Lee. It would have been obvious to one

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having ordinary skill in the art at the time the invention was made to have the claimed materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

The patent of Wyler et al. in at least figure 12 discloses that it is known to have a clip which couples physically and thermally a heat sink/fins to a base for the purpose of providing a secure and elastic connection between the heat sink and the base. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Jean or Morosas as modified, a clip which couples physically and thermally the heat sink/fins to the base for the purpose of obtaining a secure and elastic connection between the heat sink and the base as disclosed in Wyler et al.

Claims 28-31 are rejected under 35 U.S.C. § 103 as being unpatentable over Jean or Morosas in view of Lee and Bishop et al.

The patent of Jean, in Figures 3-6, and the patent of Morosas, in Figures 1-5 disclose all the claimed features with the exception of the claimed aspect ratio, the folded fin having arches and a second fan.

The patent of Lee discloses that it is known to have a folded fin having semi-circular arches and an aspect ratio within the claimed range for the purpose of reducing pressure losses within the fluid flowing over the arches. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Jean or Morosas semi-circular

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arches and an aspect ratio within the claimed range for the purpose of reducing pressure losses within the fluid flowing over the arches as disclosed in Lee. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the claimed materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

The patent of Bishop et al. in Figure 1 discloses that it is known to have first and second fans for the purpose of enhancing the convective heat transfer of the heat sink. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Jean or Morosas as modified, a second fan for the purpose of enhancing the convective heat transfer of the heat sink as disclosed in Bishop et al.

Claim 32 is rejected under 35 U.S.C. § 103 as being unpatentable over Jean or Morosas in view of Lee and Bishop et al. as applied to claims 28-31 above, and further in view of Yeh or Wyler et al. The device of Jean or Morosas as modified, fail to teach a second fan and/or the fan attached to the front.

The patent's of Yeh, in figure 2, and Wyler et al., in at least figure 12, discloses that it is known to have a clip which couples physically and thermally a heat sink/fins to a base for the purpose of providing a secure and elastic connection between the heat sink and the base. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Jean or Morosas as modified, a clip which couples physically and thermally the heat

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sink/fins to the base for the purpose of obtaining a secure and elastic connection between the heat sink and the base as disclosed in Yeh and Wyler et al.

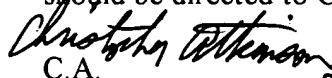
Response to Arguments

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The Examiner relied upon references, as stated in the above rejections, not applicant's disclosure to reject applicant's claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Atkinson whose telephone number is (703) 308-2603.


C.A.

June 23, 2003

CHRISTOPHER ATKINSON
PRIMARY EXAMINER